

REMARKS

Claim 14 has been canceled without prejudice or disclaimer. Claims 1-13 and 15-20 are pending in the present application.

It is respectfully submitted that the present amendment presents no new issues or new matter and places this case in condition for allowance. Reconsideration of the application in view of the above amendments and the following remarks is requested.

I. The Rejection of Claims 13-20 under 35 U.S.C. 112

Claims 13-20 are rejected under 35 U.S.C. 112. This rejection is respectfully traversed.

Original claim 13 provides that the method can comprise "one or more" of the recited steps. The original claims of an application form a part of the disclosure. This recitation of "one or more" means that all of the recited steps can be employed. Thus, the Office's assertion that the claims lack proper written description support because the specification does not teach that the steps can be used together is not valid, as even the original claims disclosed this possibility.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 112. Applicants respectfully request reconsideration and withdrawal of the rejection.

II. Objection to Claim 14

Claim 14 is objected to for the recitation "comprising step(b)" on the basis that claim 13 already requires step. Claim 14 is amended to render this objection moot.

III. The Rejection of Claims 1-3, 5-10, 13-15 and 17-20 under 35 U.S.C. 102(b) Over Mishima (JP 11-197494)

Claims 1-3, 5-10, 13-15 and 17-20 are rejected under 35 U.S.C. 102(b) Over Mishima (JP 11-197494). The Examiner contends that Applicant has not addressed the full teaching of Mishima which discloses that

"high pressure is used for implementation of [the] coating" where the coating material is expanded quickly upon pressure release (par. 0025-0056). The suggested maximum working pressure is 41.5 MPa (par. 0033), and the maximum pressure of the exemplified is 39.2 MPa. "As for a pressure, it is desirable that it is 7.2-30 MPa [7.2×10^5 - 3.0×10^7 Pa] in order to perform rapid expansion of the supercritical fluid efficiently" (par. 0046), thus meeting the limitation of claim 19. Stepwise decompression is disclosed in order to add coating materials as well as to expand the coating materials."

This rejection is respectfully traversed. Mishima is simply irrelevant to the claimed invention. Mishima does not teach or suggest a coated particle in which the coating comprises a gas phase component. Mishima teaches only the use of a supercritical (CO₂) as a solvent for preparing the coating material. That is, the supercritical solvent is used to dissolve the coating material in preparation of microcapsules, as disclosed in the very sections cited by the Office. The resulting coating layer of Mishima, which is not a gas phase component, is then applied as a continuation layer, not as a gas phase component. See Mishima at Abstract, at par 0009 to 0012 and par. 0025 to 0057, and 0061. Thus, Mishima does not teach or suggest a coated particle in which the coating comprises a gas phase component. Mishima clearly discloses that a supercritical fluid is used in the production of a coating, not that the coating contains a gas phase component. Each of the sections the Office cites is referring to the preparation of the coating, not the end coating product. Simply because a gas is used to prepare the coating (e.g., by rapid expansion) does not mean that the coating contains a gas phase component. Thus, Mishima clearly does not anticipate the claimed invention which requires that the coating comprises a gas phase component not that only a gas was used to prepare the coating.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 102. Applicants respectfully request reconsideration and withdrawal of the rejection.

IV. The Rejection of Claims 1-3, 5-6, 8-11, 13-14, 16-17 and 19 under 35 U.S.C. 102

Claims 1-3, 5-6, 8-11, 13-14, 16-17 and 19 are rejected under 35 U.S.C. 102 over Theon et al. This rejection is respectfully traversed.

The Office has not addressed the critical issue, an effervescent agent is NOT a gas phase component, rather an effervescent agent is a gas forming component. In Theon et al., when the effervescent agent forms the gas, it is no longer a coating because the coating is disintegrated. See Theon et al. at page 16: ***"The disrupting agent may be a disintegrating or effervescing agent."*** The difference between Theon et al. and the claimed invention is dramatic, in the claimed invention, the coating is intact (i.e., it is a coating) when it contains the gas phase component, whereas in Theon et al., the coating is dissolved when the gas is generated and it is not a coating at this point. Theon et al. does not anticipate the claimed invention.

For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 102. Applicants respectfully request reconsideration and withdrawal of the rejection.

V. The Rejection of Claims 12 under 35 U.S.C. 103

Claim 12 is rejected under 35 U.S.C. 103 over Mishima (JP 11-197494) in view of Selenke (US Pat. 4,022,917). This rejection is respectfully traversed.

The Office contends that Applicants cannot overcome the references by arguing against the references individually. However, as discussed above, this assertion by the Office is not valid because the Office has incorrectly concluded that Mishima teaches a coated particle, in which the coating comprises a gas phase component. As discussed above, Mishima does not disclose this, in particular, Mishima's teaching that a gas phase component is used to prepare a coating is not a teaching that the coating comprises a gas phase component.


For the foregoing reasons, Applicants submit that the claims overcome this rejection under 35 U.S.C. 103. Applicants respectfully request reconsideration and withdrawal of the rejection.

IV. Conclusion

In view of the above, it is respectfully submitted that all claims are in condition for allowance. Early action to that end is respectfully requested. The Examiner is hereby invited to contact the undersigned by telephone if there are any questions concerning this amendment or application.

Respectfully submitted,

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